



## Swaziland

### Country Reports on Human Rights Practices - [2002](#)

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Swaziland is a modified traditional monarchy with executive, legislative, and limited judicial powers ultimately vested in the King (Mswati III). The King ruled according to unwritten law and custom, in conjunction with a partially elected parliament and an accompanying structure of published laws and implementing agencies. The 2001 municipal elections and 1998 parliamentary elections increased representative government; however, political power continued to rest largely with the King and his circle of traditional advisors, including the Queen Mother. The judiciary was generally independent; however, the King exerted certain judicial powers, and High Court judges struggled to resist pressure to yield any powers to those outside the judiciary.

Both the Umbutfo Swaziland Defense Force (USDF) and the Royal Swaziland Police (RSP) operated under civilian control and were responsible for external and internal security. Some communities questioned the ability of the National Police to operate effectively at the community level and have formed community police. Members of both the National Police and the community police committed human rights abuses.

The country had a free market economy, with relatively little government intervention; its population was approximately 1.1 million. The majority of citizens were engaged in subsistence agriculture and the informal marketing of agricultural goods, although a relatively diversified industrial sector accounted for the largest component of the formal economy. The country depended heavily on South Africa, from which it received almost all of its imports and to which it sent the majority of its exports. A quasi-parastatal organization established by royal charter, and responsible to the King, maintained large investments in major sectors of the economy, including industry, agriculture, and services. This parastatal required partnership with foreign investors and international development agencies.

The Government's human rights record was poor, and it continued to commit serious abuses. Citizens were not able to change their government peacefully. Police used excessive force on some occasions, and there were reports that police tortured and beat some suspects. The Government generally failed to prosecute or otherwise discipline officers who committed abuses. The Government interfered with the judiciary and infringed on citizen's privacy rights. The Government continued to limit freedom of speech and of the press. The Government restricted freedom of assembly and association and prohibited political activity, although numerous political groupings operated openly and voiced opinions critical of the Government. The police on several occasions harassed political activists. There were some limits on freedom of movement. Legal and cultural discrimination and violence against women, as well as abuse of children, remained problems. Some societal discrimination against mixed race and white citizens persisted. Trafficking in persons occurred.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

###### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life by the Government or its agents.

Unlike in the previous year, there were no reports of deaths in police custody.

There were no developments in the February 2001 police killing of a 20-year-old man who they claimed was trying

to escape from police custody in the village of Sithobelwini, or the March 2001 death by poisoning in police custody of two 20-year-olds.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law does not prohibit specifically such practices, although under the 1963 Prison's Act correctional facility officers may be prosecuted if they engage in such practices; however, there were reports that government officials employed them. There were credible reports by criminal defendants that the security forces used torture during interrogation and abused their authority by assaulting citizens and using excessive force in carrying out their duties. For example, in January a woman accused of theft complained that she was beaten, slammed against the wall, and slapped with a knife by police attempting to elicit a confession.

Police sometimes beat criminal suspects and occasionally used the "tube" style of interrogation, in which police suffocate suspects through the use of a rubber tube around the face and mouth. According to unofficial reports, police still used the Kentucky method of interrogation in which the arms and legs of suspects are bent and tied together with rope or chain, then the person is beaten. The Government generally failed to prosecute or otherwise discipline police officers for such abuses. An internal complaints and discipline unit investigated reports of human rights abuses by the police, but no independent body had the authority to investigate police abuses. Courts have invalidated confessions induced through physical abuse and have ruled in favor of citizens assaulted by police.

Police also banned and forcibly dispersed prayer meetings that unions and members of banned political parties attempted to attend (see Section 2.b.).

Prison conditions generally met international standards; however, government detention centers remained overcrowded, and conditions were generally poor. The use of nonbailable provisions resulted in the continued overcrowding and other unfavorable conditions in government detention centers where suspects were held during pretrial detention. Suspects often were released for time served after being sentenced (see Section 1.d.).

Women and juveniles are held in separate prison facilities.

The Government routinely permitted prison visits by diplomats, journalists, human rights monitors, and representatives of international organizations. During the year, a foreign diplomat and the Assistant Secretary General for the U.N. International War Crimes Tribunal for Rwanda conducted visits to prison facilities (see Section 4).

d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest and detention, and the Government generally respected these prohibitions. The law requires warrants for arrests, except when police observed a crime being committed or believed that a suspect might flee. Detainees may consult with a lawyer of their choice and must be charged with the violation of a statute within a reasonable time, usually 48 hours, or, in remote areas, as soon as the judicial officer appeared.

The Government continued to limit the provisions for bail for crimes appearing in the Non-Bailable Offenses Order, which listed 11 offenses. The Minister of Justice may amend the list by his own executive act. The mere charge of the underlying offense, without any evidentiary showing that the suspect was involved, was sufficient to employ the nonbailable provision. In May 2001, the Court of Appeals ruled that the nonbailable order was unconstitutional; however, in June 2001, the King overruled the Court's decision by decree. The nonbailable offense provision exacerbated ongoing judicial problems such as lengthy pretrial detention, the backlog of pending cases, and prison overcrowding. In November the Court of Appeals ruled that the King could not rule by decree, which invalidated the nonbailable offense order (see Section 1.e.).

During the year, the cases against the remaining 9 of 15 union representatives who were arrested in January 2001 were dismissed (see Section 2.b.).

In September the High Court acquitted Mario Masuku, the president of the banned political party People's United Democratic Movement (PUDEMO), of sedition.

Also during the year, the 1999 case of an editor of an independent newspaper who was arrested for criminal defamation was dismissed without explanation.

The Government did not use forced exile.

e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, the King has certain judicial powers, and government officials, including the King, the Prime Minister, the Minister of Justice and Constitutional Affairs, and the traditional governor of the royal family, challenged the judiciary's independence on several occasions by attempting to influence and also to reverse court decisions. High Court judges resisted pressure to yield any powers to those outside the judiciary; however, the Government ignored judgements that did not favor them. For example, the Government ignored a September 2000 ruling by the Chief Justice that prohibited the eviction of two traditional chiefs. In October 2000, the Chief Justice rescinded the injunction against the eviction after the Attorney General (AG) gave him an affidavit stating that the King had decreed the evictions and that the High Court had no jurisdiction over the case. The case was appealed to the Court of Appeals, which ruled in December 2000 that the Chief Justice's original ruling was correct. In 2001 the King succeeded in overruling a subsequent decision made by the Court of Appeals ordering the Government to compensate citizens who also were expelled forcibly from their homes when the chiefs were evicted in October 2000. During the year, when the Commissioner of Police refused to enforce a court order permitting the evicted residents to return to their homes, one of the residents sought relief from the High Court. The AG, acting on behalf of the Police Commissioner, urged the High Court judge hearing the case to be "executive minded" when ruling on the matter. The judge refused to yield to pressure and held the Commissioner in contempt of court.

In October the AG, allegedly acting on orders from King Mswati III, accompanied by the Police Commissioner, the Prison Commissioner, and the Commander of the USDF, advised the Chief Justice of the High Court and two other High Court judges to dismiss a case, which the mother of a young woman taken by the King's emissaries to become his 10th wife alleged was an abduction (see Section 5). The AG told the judges that if they proceeded to hear the case they should resign immediately upon rendering judgment or the AG would arrange for their removal. The judges refused to yield to the pressure; however, the mother asked for the matter to be postponed.

On November 8, the Director of Public Prosecutions (DPP) brought obstruction of justice and sedition charges against the AG based on his attempted coercion of the High Court judges. On November 12, the Prime Minister, the AG, and a member of the National Council ordered the DPP to withdraw the charges or resign his post. If the DPP did neither he was threatened with removal and possible bodily harm. On November 20, he was locked out of his office; however, he was eventually let back into his office. The Government has blocked the DPP's efforts to prosecute the AG by refusing to serve process in the case. The DPP advised the Government that he would resign if he received full payment of his salary through the term of contract, which expires in 2005. The Government stalled negotiations on this and threatened to arrest the DPP on unrelated matters pertaining to a car accident that the DPP was involved in several years ago.

In February the Prime Minister, acting in defiance of a court order, ordered the Commissioner of Police to prevent the Clerk of Parliament from resuming his position after the court determined that the Prime Minister had improperly transferred him to the Ministry of Agriculture. After the court ruled that the Prime Minister was in contempt of court for his conduct, he withdrew his instructions to the Commissioner of Police. In November the Prime Minister again ordered the Clerk of Parliament transferred to the Ministry of Agriculture, stripped him of his administrative powers, and transferred those powers to the Principal Secretary in the Prime Minister's office. The Clerk challenged his transfer and has requested the intervention of the Labor Commissioner.

On November 22, the Court of Appeals ruled that King Mswati has no authority to rule by decree until a new constitution was put in place, which invalidated the Non-Bailable Offenses Order. On November 28, the Government declared it would disregard the court's ruling because it challenged the "legitimate authority of the King." As a result of this statement, the judges on the Court of Appeal all resigned. On December 19, the High Court ruled that the Government could not seek relief in court until the Prime Minister withdrew his statement the Government would not abide by the judgements; however, the Prime Minister did not withdraw his statement and the Court did not reverse its position by year's end.

Judicial powers are vested in a dual system, one independent and based on Western law, the other based on a system of national courts that followed unwritten traditional law and custom. In treason and sedition cases, the King can circumvent the regular judiciary by appointing a special tribunal, which may adopt rules and procedures different from those applied in the High Court; however, this power has not been used since 1987.

The Western judiciary consisted of the Court of Appeals (composed entirely of expatriate, usually South African, judges), the High Court, and magistrate courts, all of which were independent of executive and military control. The expatriate judges, frequently distinguished members of their respective bars, served on the basis of 2-year renewable contracts. Local judges served indefinitely with good behavior. In magistrate courts, defendants were entitled to counsel at their own expense. Court-appointed counsel was provided in capital cases or when difficult points of law were at issue. There were well-defined appeal procedures up to the Court of Appeals, the highest judicial body. A lack of an independent court budget, lack of trained manpower, inadequate levels of salary remuneration, and casework management remained problems for the judiciary.

Most citizens who encountered the legal system did so through the traditional courts. The authorities may bring ethnic Swazis to these courts for minor offenses and violations of traditional law and custom. In traditional courts, defendants were not permitted formal legal counsel but could speak on their own behalf and were assisted by informal advisers. Sentences were subject to review by traditional authorities and could be appealed to the High Court and the Court of Appeals. The public prosecutor legally has the authority to determine which court should hear a case, but in practice the police usually made the determination. Accused persons had the right to transfer their cases from the traditional courts. Delays in trials were common.

In 1998 the King issued an administrative order that strengthened the judicial powers of traditional chiefs appointed by the King. The order provided for chiefs' courts with limited civil and criminal jurisdiction and authorized the imposition of fines up to approximately \$30 (300 emalangeni), and prison sentences of up to 3 months. Accused persons were required to appear in person without representation by a legal practitioner or advocate. However, chiefs' courts only were empowered to administer customary law "insofar as it is not repugnant to natural justice or morality," or inconsistent with the provisions of any law in force. The order provides that defendants may appeal decisions of the chief's court to regional appeal courts and to the higher courts of appeal. Appeals in criminal matters can be taken to the Judicial Commissioner as a last resort, and the High Court was the court of last resort for civil matters. Human rights organizations and the press expressed serious concern over issuance of the 1998 Administrative Order.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law requires a warrant from a magistrate before police may search homes or other premises; however, at times police did not respect this requirement in practice. Police officers with the rank of subinspector or higher had the right to conduct a search without a warrant if they believed that evidence might be lost through the delay in obtaining a warrant. Searches without warrants occurred (see Section 2.b.).

On February 26, police searched the house of a member of the banned political party Ngwame National Liberatory Congress without a warrant after threatening the homeowner with guns to gain access.

In October police searched and harassed a member of a banned political party for more than 1 hour on the roadside before letting her proceed.

There were no developments in the February 2001 case in which police officers raided the home of a citizen and his foreign wife and reportedly were abusive.

There were instances of physical surveillance by the police on members of labor unions and banned political groups. On February 7, police harassed and searched a car transporting leaders of a banned political party who were on their way to South Africa. Police also used video cameras to record meetings of union members.

In 2000 the Operation Support Service Unit (OSSU) of the RSP and the USDF evicted and relocated from their residences two Swazi chiefs representing the areas of KaMkhweli and Macetjani, members of their families, and others who opposed the appointment of Prince Maguga Dlamini to replace the chiefs. In June 2001, the Court of Appeals ordered the Government to assist and compensate the evicted residents, allow them to return to their homes, and allow them to remain in their homes until final judgement was decided by the High Court; however, King's Decree No. 2 overturned the Court of Appeals' ruling. In July 2001, police again evicted the chiefs and approximately 23 persons who had returned to their residences.

On March 2, approximately 50 residents of kaMkhweli marched to the Siphophaneni police station to deliver a petition calling for the return of chiefs Mtfuso and Mliba, the departure of police from kaMkhweli and Macetjeni, the removal of Prince Maguga from the area, and a time to conduct burial rites for the deceased son of chief Mtfuso.

Some of the women in the crowd of 50 tore off their mourning strings and threw them to the ground as an act of protest. Viewing this action as an insult, the officer-in-charge ordered police to detain the women and police subsequently rushed the crowd and beat those women who threw down their mourning strings. Many of the residents then fled to the Siphophaneni clinic for shelter. After the initial attack, police raided and ransacked approximately 60 nearby huts in an attempt to apprehend some of the residents. Police eventually detained a young woman and the grandfather of evicted chief Mtfuso.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The law does not provide for freedom of speech and of the press, and the Government limited these rights through a continuing formal ban on political parties and occasional harassment of journalists. The Government also discouraged critical news coverage of the royal family, and journalists practiced self-censorship in regard to the immediate royal family and national security policy.

There was one daily independent newspaper and a daily government-financed newspaper. In general both the government-owned and independent newspapers covered a wide variety of sensitive topics and criticized government corruption, inefficiency, and waste, frequently using harsh invective. However, the Government used the same media to rebut such allegations. With some exceptions, the Government continued to withhold its advertising from the independently owned daily newspaper. The Prime Minister's office distributed a free weekly circular reporting on government policy and activities.

During the year, the Government did not make any progress in drafting a media policy to replace the proposed media council bill.

There were no developments in the 2001 appeal by the Government of High Court ruling against the Government's 2001 proscription of a weekly newspaper.

During the year, the 1999 case against an editor of an independent newspaper charged with criminal defamation was dismissed.

Police beat a journalist attempting to attend a prayer service (see Section 2.b.).

The Government had a monopoly over television and radio programming. There were two government-owned radio stations. There was one independent radio station, which only broadcast religious programs. The government-owned television and radio stations--the most influential media in reaching the public--generally followed official policy positions. Government broadcast facilities retransmitted Voice of America (VOA) and British Broadcasting Corporation (BBC) news programs in their entirety.

Private companies and church groups owned several newsletters, magazines, and one radio station that broadcast throughout the region but generally avoided political controversy. The Christian Broadcasting Company radio station was allowed to operate despite the fact that it was government policy not to permit private broadcasters to operate.

The Government did not restrict use of the Internet.

The practice of self-censorship and the prohibition of political gatherings limited academic freedom. On December 3, police evacuated the University of Swaziland and suspended classes following 2 days of protests of the Government's proposal to buy a jet for King Mswati and recent attacks on the independence of the judiciary and the rule of law.

### b. Freedom of Peaceful Assembly and Association

The law does not provide for freedoms of assembly and association, and the Government restricted these rights in practice. King Sobhuza's 1973 decree prohibits meetings of a political nature, processions, or demonstrations in any public place without the consent of the Commissioner of Police. The authorities routinely withheld permission to hold such meetings.

During the year, the police forcibly dispersed several demonstrations and meetings (see Sections 1.f. and 2.a.).

For example, in October and November, police dispersed forcibly persons attempting to attend community prayer services in connection with the evictions of the two chiefs and their supporters from KaMkwaheli and Macetjani.

During the year, police harassed, arrested, and disrupted the meetings of prodemocracy activists and members of banned political parties (see Section 1.f.). For example, on November 19, police prevented PUDEMO leader Masuku from holding a press conference at a privately owned conference center.

Police also banned and dispersed meetings held by workers' unions. Police generally took such actions when they believed that political discussions were occurring, or were likely to occur, at these meetings. On November 2, police searched Swaziland Federation of Trade Union (SFTU) representatives and their vehicles without warrants and then forbade them from proceeding to the site of the prayer service on the grounds that the group had dispersed. Police beat a journalist attempting to attend the same service.

There was no action taken against the responsible police officers who in October 2001 used tear gas and beat several persons while dispersing forcibly a demonstration in the KaMkwaheli and Macetjani areas, or the police who forcibly disrupted a press conference also in October 2001 and reportedly injured 18 students.

No action was taken against police officers in the following 2001 incidents: The police officers who dispersed forcibly a Swaziland National Association of Teachers (SNAT) union meeting in January, or the police banning of an impromptu meeting called by the Swaziland Agricultural Plantation and Allied Workers Union (SAPAW) in August.

There were no developments in the January 2001 case of nine persons who were charged with misconduct for compromising their political impartiality and for violating a government order that prohibited them from attending a November 2000 political meeting in South Africa.

Several traditional forums existed for the expression of opinion, including community meetings, national councils, and direct dialog with area chiefs; however, these local channels were not meant as a vehicle for political change. They often depended on the interests of leaders and were not consistently effective channels for expressing political dissent.

King Sobhuza's 1973 decree prohibits political parties. In January 2001, police arrested 15 labor union and political group members for organizing protest actions and for political association. In September 2001, the Magistrate court acquitted six of these union members, and during the year, the cases of the remaining nine union representatives were dismissed.

#### c. Freedom of Religion

There is no formal legal provision for freedom of religion; however, the Government generally respected freedom of religion in practice, although there were a few restrictions. Followers of all religious faiths generally were free to worship without government interference or restriction.

New religious groups or churches were expected to register with the Government upon organizing in the country. In order to be considered organized, a religious group or church must demonstrate either possession of substantial cash reserves or financial support from outside religious groups with established ties to western or eastern religions. For indigenous religious groups or churches, authorities considered demonstration of a proper building, a pastor or religious leader, and a congregation as sufficient to grant organized status. However, there is no law describing the organizational requirements of a religious group or church. All religions were recognized unofficially.

Government permission was required for the construction of new religious buildings. Non-Christian groups sometimes experienced minor delays in obtaining permits from the Government.

In October and on November 2, police banned and dispersed people attempting to attend community prayer services (see Section 2.b.).

For a more detailed discussion see the 2002 International Religious Freedom Report.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law does not provide for these rights, and the Government placed some limits on them in practice. Citizens

may travel and work freely within the country; however, under traditional law, a married woman requires her husband's permission to apply for a passport, and an unmarried woman requires the permission of a close male relative. Citizenship law nominally permits nonethnic Swazis to obtain passports and citizenship documents; however, individuals seeking these documents sometimes experienced lengthy processing delays, in part due to occasional prejudice that mixed-race and white persons were not real Swazis (see Section 5). Political dissenters often had their citizenship questioned and could experience difficulty in obtaining travel documents. The Constitutional Review Commission (CRC) made a recommendation that effectively could render a child stateless should it be born to a Swazi mother and a foreign father.

The Government treated several thousand ethnic Swazis living across the border in South Africa as virtually indistinguishable from Swazi citizens and routinely granted them travel and citizenship documents.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated fully with the office of the U.N. High Commissioner for Refugees (UNHCR), as well as the various nongovernmental organizations (NGOs) involved in the care of refugees. According to the UNHCR, there were an estimated 1,000 refugees in the country, the majority coming from the Great Lakes region of Africa and Angola. The issue of provision of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens were not able to change their government peacefully. The King retained ultimate executive and legislative authority, and political parties were prohibited. Passage of legislation by Parliament required the King's assent to become law, which he was not obliged to give. When Parliament was not in session, the King could legislate by decree under his residual emergency powers. The King chooses the Prime Minister and, in consultation with the Prime Minister, also chooses the Cabinet, many senior civil servants, and the heads of government offices.

Citizens elected most members of the lower house of Parliament. According to law, 55 seats in the 65-seat House of Assembly are popularly contested. Parliamentary elections were held by secret ballot in October 1998 for 53 of the 55 elected seats (the King appoints the remaining 10 members), and a by-election was held in December 1998 for 1 of the 2 remaining constituencies. The final remaining constituency held its by-election in 1999.

As provided under law, the House of Assembly nominated 10 members from the public at large to serve in the upper house or Senate. The King appointed the additional 20 Senate members. The Cabinet of Ministers included only three elected Members of Parliament, with the balance drawn from appointed members of the House and Senate.

King Sobhuza, the King's father who died in 1982, suspended the 1968 Constitution in 1973 with a decree that bans political parties, meetings, and processions; these meetings can be held only in local "Tinkhundla" administrative centers or as authorized by the police. The King had the authority to issue decrees that carry the force of law and exercised this authority in June 2001, when he issued Decree No. 2. Decree No. 2 reasserted and strengthened his absolute authority, provided further restrictions on freedom of speech and the press, reinstated a nonbailable offense provision, and provided a mechanism to neutralize the powers of the judiciary and Parliament. On July 24, the King repealed the decree after the Government received strong criticism from foreign governments and domestic and international groups; however, the King retained the nonbailable offense provision(see Section 1.d.).

Pressure has been building for several years to modernize the political system, and both the King and the Government recognized that there was a need for political reform, including the drafting of a new constitution and, specifically, a bill of rights. The CRC compiled a constitutional framework, including portions of the 1968 Constitution still in force, the 1973 decree as currently amended, and the 1992 Establishment of Parliament Order, and in August 2001, after 5 years of deliberation, the CRC publicly released its findings. In general the report concluded that most citizens want a continuation of the status quo, a strengthening of the King's powers, a continued ban against political parties, greater emphasis on traditional law and custom, and stiffer penalties for those who speak against the state. The CRC was disbanded after submitting its report.

Domestic and international groups criticized the CRC report as flawed. These groups specifically cited the commission's composition that consisted predominantly of traditionalists, the internal disputes that led to the resignation of four members, and the commission's controversial terms of reference. These controversial terms of

reference included prohibition of media coverage, prohibition of group submissions, and possible fines and imprisonment of those persons interfering in the commission's activities. During the constitutional review process, human rights organizations, church groups, labor unions, and other NGOs conducted their own active programs of constitutional and human rights civic education.

In January the King appointed a Constitutional Drafting Committee and instructed the committee to prepare a constitution within 8 months. The release of the draft Constitution was delayed until 2003.

Chiefs were custodians of Swazi law and custom and were responsible for the day-to-day running of their chiefdom. Although law and customs were not codified, chiefs essentially were responsible for maintaining law and order in their respective chiefdoms. For example, chiefs had their own community police who may arrest a suspect and bring the suspect before an inner council within the chiefdom for a trial. Besides the Swazi Administration Act of 1998, chiefs traditionally were empowered by virtue of unwritten customary laws to impose fines and some form of punishment to their subjects. Chiefs were an integral part of society and acted as overseers or guardians of families within the communities and traditionally reported directly to the King. Local custom mandates that chieftaincy was hereditary.

The continuing ban on political parties and restrictions on political activity prompted some political groupings and trade unions to call for a boycott of the 1998 elections by their members. Members of the SFTU who participated in the electoral process were threatened with disciplinary measures by the labor federation. Election officials reported that approximately 200,000 of the 400,000 eligible citizens registered for the parliamentary elections, and that approximately 120,000 citizens voted, although critics questioned that figure.

There was no formal international observer presence during the 1998 elections, but there was intensive coverage by local and foreign media, and resident diplomats were granted accreditation to observe the proceedings freely. Candidates or their representatives also were allowed to monitor the elections. Election procedures generally were carried out in an orderly fashion; however, the decision to open polling stations for further voting a week after the election because of torrential rains led to irregularities, including persons being found with multiple copies of registration certificates. Alleged irregularities led to legal challenges in four constituencies, and the High Court overturned the result in one constituency as a result. Opposition political groupings remained highly critical of the entire electoral process, due to the continuing formal ban on organized political party activity.

In September 2001, elections were held by secret ballot without major difficulties to select new municipal councils in 11 cities and towns across the country. Voter turnout was low, with percentages ranging from 12 percent to 40 percent across all cities and towns. There were no reports of intimidation or violence.

Women generally had full legal rights to participate in the political process; however, in accordance with societal practice, widows in mourning (for periods that can vary from 6 months to 3 years) are prevented from appearing in certain public places and from being near the King and, as a result, can be excluded from voting or running for office. There were 4 women in the 65-member House of Assembly, 4 women in the 30-seat Senate, and 2 women among the 16 ministers in the Cabinet. A woman served as Secretary to the Cabinet and the head of the civil service. Three women served as principal secretaries, the most senior civil service rank in the ministries.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Human rights groups have spoken out on a number of occasions, criticizing the lack of accountability and transparency in government circles. In May 2001, Amnesty International visited the country to conduct investigative work on the state of human rights in the country, and issued a press release condemning the Government's interference with the independence of the judiciary and failure to respect the rule of law.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The law forbids employers to discriminate on the basis of race, sex, or political affiliation. Under the law, employees may bring suit against employers for discrimination, and there also were provisions for criminal prosecutions. The law reportedly has been used on occasion to bring moral suasion to bear against employers. Mixed race citizens sometimes experienced governmental and societal discrimination.

#### Women



Domestic violence against women, particularly wife beating, was common, despite traditional restrictions against this practice. Women have the right to charge their husbands with assault under both the Western and the traditional legal systems, and urban women frequently did so, usually in extreme cases when intervention by extended family members failed to end such violence. Rural women often had no relief if family intervention did not succeed, because the traditional courts could be unsympathetic to "unruly" or "disobedient" women and were less likely than the modern courts to convict men for wife beating. Rape also was common and regarded by many men as a minor offense, while women often were inhibited from reporting such crimes by a sense of shame and helplessness, especially when incest was involved. In the modern courts, sentences frequently resulted in several months in jail, a fine, or both. The law provides some protection from sexual harassment, but its provisions were vague and largely ineffective. Several NGOs provided support for victims of abuse or discrimination.

Women occupied a subordinate role in society. In both civil and traditional marriages, wives were treated as minors legally, although those who married under civil law may be accorded the legal status of adults, if stipulated in a signed prenuptial agreement. A woman generally required her husband's permission to borrow money, open a bank account, obtain a passport, leave the country, gain access to land, and, in some cases, take a job. An unmarried woman required a close male relative's permission to obtain a passport (see Section 2.d.). Despite the law's requirement for equal pay for equal work, men's average wage rates by skill category usually exceeded those of women.

The dualistic nature of the legal system complicated the issue of women's rights. Since uncoded law and custom govern traditional marriage, women's rights often were unclear and change according to where and by whom they were interpreted. Couples often married in both civil and traditional ceremonies, creating problems in determining which set of rules applied to the marriage and to subsequent questions of child custody and inheritance in the event of divorce or death. In traditional marriages, a man may take more than one wife. For example, in October King Mswati III, who has nine wives, allegedly instructed his agents to take three additional young women into royal custody while he considered whether or not to take them as wives. In November the King announced that he would take one of the three women, the mother of whom sued in court alleging that her daughter's taking was an abduction (see Section 1.e.). The status of the two other women remained unknown at year's end. A man who marries a woman under civil law legally may not have more than one wife, although in practice this restriction sometimes was ignored. Traditional marriages considered children to belong to the father and to his family if the couple divorced. Children born out of wedlock were viewed as belonging to the mother. Under the law, a woman did not pass citizenship automatically to her children. Inheritances were passed through male children only.

Changing socioeconomic conditions, urbanization, and the increasing prominence of female leaders in government and civic organizations were breaking down barriers to equality. Women routinely executed contracts and entered into a variety of transactions in their own names. The Government has committed itself to various women's initiatives, and the Ministry of Home Affairs coordinated women's issues. Although gender sensitization was not part of the formal school curriculum, some schools have organized debates and other mechanisms to address gender issues. The University Senate also has a subcommittee that encouraged students and faculty to hold seminars and workshops on gender issues.

## Children

The Government has passed a number of laws directly addressed children's issues. The Government did not provide free, compulsory education for children. The Government paid teachers' salaries while student paid fees for books and into the building fund. Supplemental money sometimes must be raised for building upkeep, including teachers' housing; however, the country had a 99 percent primary school enrollment rate. The public school system ends at grade 12. Children were required to start attending school at the age of 6 years. Most students reach grade 7, which was the last year in primary school, and a large percentage of students finish grade 10. A government task force educated the public on children's issues.

In general medical care for children was inadequate. The wait for medical care was long, nursing care in public hospitals was poor, and hospitals were overcrowded and understaffed. Most prescription drugs were available in urban facilities, but rural clinics had inadequate supplies of certain drugs.

Child abuse was a problem, and the Government has not made specific efforts to end such abuse. Children convicted of crimes sometimes were caned as punishment. There were a growing number of street children in Mbabane and Manzini. The law prohibits prostitution and child pornography and provides protection to children under 16 years of age from sexual exploitation and sets the age of sexual consent at 16 years of age; however, female children sometimes suffered sexual abuse, including by family members. There were reports that Mozambican girls worked as prostitutes in the country (see Section 6.f.).

## Persons with Disabilities

The Ministry of Home Affairs has called for equal treatment of persons with disabilities; however, there were no laws that protect the rights of those with disabilities or that mandate accessibility for persons with disabilities to buildings, transportation, or government services. There has been no progress on legislation that would give preferential treatment to persons with disabilities for building access and other needs; however, all new government buildings under construction included improvements for those with disabilities, including accessibility ramps.

## National/Racial/Ethnic Minorities

Governmental and societal discrimination was practiced widely against nonethnic Swazis, namely white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population were nonethnic Swazis. Nonethnic Swazis have experienced difficulty in obtaining official documents, including passports (see Section 2.d.). Nonethnic Swazis also suffered from minor forms of governmental and societal discrimination such as needing special permits or stamps to buy a car or house, delays in receiving building permits for houses, and difficulties in applying for a bank loan.

## Section 6 Worker Rights

### a. The Right of Association

The 2000 Industrial Relations Act (IRA) provides that employees who are not engaged in essential services have the right to participate in peaceful protest action to promote their socioeconomic interests. However, during the year, the Government continued to ignore certain foreign direct investors who violated international labor standards and domestic labor laws with impunity.

The main trade union federation was the SFTU. A second trade union federation was the Swaziland Federation of Labor (SFL).

Unions were free to draw up their own constitutions within the framework of the IRA. The IRA specifies a number of provisions that must be addressed in a constitution, including the election of officers by secret ballot. There was no collusion between the Government and business in relation to worker rights. The Labor Commissioner may reinstate unions quickly, once they have met all the legal requirements of the IRA.

The law requires employers to recognize a union when it achieves more than 50 percent membership among employees. Employers must allow representatives of legally recognized unions to conduct union activities on company time. Although many employers resisted union recognition and forced the issue to the Industrial Court, the Court generally ruled in favor of the unions in these cases.

The law forbids antiunion discrimination; however, antiunion discrimination continued to be prevalent and manufacturers continued to refuse to recognize duly elected unions. In the case of unfair dismissal, the court can order reinstatement and compensation for the employee, as well as fine the employer. Union leaders have made credible charges that management in various industries dismissed workers for union activity.

Unions were free to associate with international labor bodies and maintained regular contact.

### b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and bargain collectively. The IRA, with the 2001 amendments, is a comprehensive law providing for the collective negotiation of the terms and conditions for employment and dispute resolution mechanisms. In addition to these provisions, the law provides for the administration of a court devoted to the adjudication of labor related issues and establishes a tripartite labor advisory board. Collective bargaining was widespread; approximately 80 percent of the formal private sector were unionized, and a number of collective bargaining agreements were reached during the year. The Industrial Court may refuse to register collective bargaining agreements in the event of nonobservance of any requirement of the IRA. The IRA permits workers councils, which were to be established in factories with 25 or more employees in the absence of a trade union, to negotiate terms and conditions of work, wages, and welfare.

Disputes were referred to the Labor Commissioner and the Industrial Court, if necessary. The IRA also provides for

disputes to be referred to the Conciliation, Mediation, and Arbitration Committee (CMAC). The Chief Executive Officer chaired the CMAC. By year's end, the CMAC had adjudicated approximately 2,200 cases.

The IRA details the steps to be followed when disputes arise, including the definition of a legal or illegal strike. The IRA shortened the notice that an organization or federation was required to give before it commenced a protest action. The IRA empowers the Government to mediate employment disputes and grievances through the Labor Advisory Board. When disputes arose, the Government often intervened to try to reduce the chances of a strike, which may not be called legally until all avenues of negotiation have been exhausted, and a secret ballot of union members has been conducted. The IRA prohibits strikes in "essential" services, which included police and security forces, correctional services, fire fighting, health, and many civil service positions.

In recent years, there have been a number of strikes, usually over wages and benefits, or the dismissal of fellow workers.

In March the Industrial Court ordered the Government to pay back wages to 32 state television employees who were dismissed in 1999; however, the Government had not done so by year's end.

During the year, the Government maintained that all outstanding labor issues have been addressed; however, the SFTU continued to press for action on the 27 demands it presented in 1994, including calls for fundamental political change. These demands addressed a wide range of issues, including recognition of affirmative action, a national uniform minimum wage, an end to discrimination against women, the provision of better housing for workers, inclusion of worker representatives in constitutional discussions, and the lifting of the 1973 Decree that suspended the Constitution and outlawed political parties.

There were widespread allegations that some garment manufacturers did not comply with the labor laws and that the Government did not enforce the law effectively within this sector. It was reported that the AG did not bring any cases against garment manufacturers for labor law violations, despite government inspectors having identified several manufacturers that were in violation of the law.

There were no export processing zones.

#### c. Prohibition of Forced or Bonded Labor

The law prohibits forced or bonded labor, including by children, and the Government generally enforced this prohibition effectively; however, the SFTU cited the 1998 Administrative Order as a form of forced labor, because it reinforced the tradition of residents doing traditional tasks without receiving compensation for chiefs and allowed the chiefs to fine their subjects for failing to carry out the manual labor.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The law prohibits the hiring of a child below the age of 15 in an industrial undertaking, except in cases where only family members were employed in the firm, or in technical schools where children were working under the supervision of a teacher or other authorized person. Legislation limits the number of night hours that can be worked on schooldays, and limits children's work hours overall to 6 per day and 33 per week. Employment of children in the formal sector was not usual; however, children below the minimum age frequently were employed in the agricultural sector, particularly in the eastern cotton-growing region. Children also were employed as domestic workers, and as herd boys in rural areas. The Ministry of Labor was responsible for enforcement, but its effectiveness was limited by personnel shortages.

A fact finding mission from the International Labor Organization (ILO) visited the country in August and encouraged the Government to participate in the ILO's International Program for the Elimination of Child Labor program; however, the Government had not yet decided to participate by year's end.

#### e. Acceptable Conditions of Work

There was a legally mandated sliding scale of minimum wages depending on the type of work performed. These minimum wages generally did not provide a worker and family with a decent standard of living. The minimum monthly wage for a domestic worker was approximately \$30 (300 emalangeni), for an unskilled worker \$42 (420 emalangeni), and for a skilled worker \$60 (600 emalangeni).

Labor, management, and government representatives have negotiated a maximum 48-hour workweek in the industrial sector except for security guards, who worked up to six 12-hour shifts per week. The law permits all workers 1 day of rest per week. Most workers received a minimum of 12 days annual leave. The Labor Commissioner enforced standards in the formal sector; however, enforcement was lax or nonexistent especially in the textile and apparel sector. There were extensive provisions allowing workers to seek redress for alleged wrongful dismissal; these provisions frequently were invoked. There also were penalties for employers who conduct unauthorized lockouts; however, penalties were not imposed during the year.

The law protects worker health and safety. The Government set safety standards for industrial operations, and it encouraged private companies to develop accident prevention programs. Recent growth in industrial production necessitated more government action on safety issues; however, the Labor Commissioner's office conducted few safety inspections in recent years because of staffing deficiencies and an alleged desire not to "scare off foreign investors." Workers had no formal statutory rights to remove themselves from dangerous work places without jeopardizing their continued employment; nor did any collective bargaining agreements address the matter.

There were allegations that working conditions within some garment factories were substandard. In particular, there were allegations that women who tried to take maternity leave were dismissed, that employers paid employees at casual or probationary wage scales regardless of their position or length of service, and that some supervisors were abusive to employees. The Government has indicated a willingness to increase labor inspections in order to address these allegations.

#### f. Trafficking in Persons

The law does not prohibit trafficking in persons, and there were reports of trafficking. Underage Mozambican girls reportedly worked as prostitutes in the country. There also were reports that Swazi women were trafficked to South Africa for prostitution.